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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,680	08/20/2001	Klaus Pfaffelhuber	MUE-0002	3010

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EXAMINER

LOCKETT, KIMBERLY R

ART UNIT PAPER NUMBER

2837

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,680

Applicant(s)

PFAFFELHUBER ET AL.

Examiner

Kim R. Lockett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 29, 33, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Nomura et al.

Nomura et al discloses the sounding shielding element for protection from the propagation of sound from a noise area of a room comprising at least one layer with a plurality of small perforations formed in the layer wherein the average diameter or width ranges between .001 and .7mm and a hole/surface ratio ranges between .001 and 8%. Nomura et al also discloses that his material is used to cover sound generating structural parts.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 5-10, 13, 15, 16, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al in view of Flocke et al.

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Nomura et al discloses the sounding shielding element for protection from the propagation of sound from a noise area of a auto ceiling panel (claims 15 and 16) comprising at lease one layer with a plurality of small perforations formed in the layer wherein the average diameter or width ranges between .001 and .7mm and a hole/surface ratio ranges between .001 and 8%. Nomura et al also discloses that his material is used to cover sound generating structural parts.

Nomura et al does not disclose the use of a specific width.

Flocke et al discloses the use of a sound absorbing wall with specific widths (column 2, lines 48-68).

Regarding claims 7-9 Nomura et al discloses the use of a panel that is three-dimensional and is molded from synthetic material.

Flocke et al also discloses the use of an aluminum plate (column 5, lines 15-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sound shielding element as taught by Nomura et al with the specific widths as taught Flocke et al in order to provide an efficient means of noise absorption.

Regarding claims 30 and 31, Flocke et al discloses a panel formed from woven fiber and impregnating a textile tissue with a thermoplastic material (column 2, lines 39-46).

5. Claims 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al in view of Flocke et al and Van Lighten.

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Nomura et al and Flocke et al do not disclose of the specific uses of their noise absorbing panel.

Van Lighten discloses the use of a sound absorbing panel. Van Lighten also discloses that sound absorbing panels used in door panels and vehicle components (column 6, lines 20-25). Van Lighten also discloses that sound absorbing panels used in wheel casings and bonnets are well known in the art (column 1, line 25-30). Van Lighten also discloses that sound absorbing panels used in tubes (column 2, lines 16-33) and engines (column 1, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Normura with the widths as taught by Flocke et al since Van Lighten teaches that it is well known in the art to use sound absorbing panel to help with noise absorption in different elements.

6. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al in view of Flocke et al and Hiers et al.

Nomura et al in view of Flocke et al do not disclose the use of needles to make holes in the panels.

Hiers et al discloses the use of needles to make holes in the panels (column 10, lines 30-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Normura with the widths as taught by Flocke et al and the technique as used by Hiers et al in order to provide sound abatement.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### **Response to Arguments**

8. Applicant's arguments filed 1/30/02 have been fully considered but they are not persuasive. The applicant argues the lack of specific *range* of perforation diameters being between .001 and .7mm. However Nomura discloses an apparatus where the specific *range* of perforation diameters is between .01 and 5mm, which clearly falls in the range as recited by the applicant. Furthermore, with regards to the ratio as disclosed by the applicant ranging between .001 and 8%. The ratio as disclosed by Nomura et al is between 1 and 50% , which clearly falls in the range as recited by the applicant . With regards to the intended use recitation in the claims, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to

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be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ2d 1647.*

9. Any inquiry of a **general nature or relating to the status of this application or filed papers** should be directed to the **Group receptionist whose telephone number is (703) 308-0956.**

Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center located at Crystal Plaza 4. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). The Group 2800 CP 4 Fax Center number is (703) 308-77(22 or 24). Fax numbers that provide an auto-reply fax receipt are: for before finals (703) 872-9318 and after finals (703) 872-9319.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC) whose telephone number is 800-786-9199.** Assistance is also available on the Internet at [www.uspto.gov](http://www.uspto.gov).


For requesting copies of Cited Art, Office Actions or the like, or General Problem solving, calls should be directed to the TC 2800 Customer Service Office whose telephone number is 703-306-3329 or by fax at 703-306-5515.

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Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose telephone number is **(703) 308-7615**. The examiner can normally be reached on Monday through Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on (703) 308-3370.

*Kim Lockett*  
*Patent Examiner*  
*Art Unit 2837*

  
**KIMBERLY LOCKETT**  
**PRIMARY EXAMINER**